

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 14311US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial № 10/672,653

Filed: September 26, 2003

For: CARD-BASED AND INDEPENDENT
SERVER-BASED BILLING AND
AUTHORIZATION SYSTEM IN A
MEDIA EXCHANGE NETWORK

Examiner: Alan H. Luong

Group Art Unit: 2623

Confirmation № 8223

Electronically filed on 08-OCT-2008

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated April 11, 2008 ("Final Office Action"), in which claims 1-25 were finally rejected. The Appellant respectfully requests that the Board of Patent Appeals and Interferences ("Board") reverses the final rejection of claims 1-25 of the present application. The Appellant notes that this Appeal Brief is timely filed within the period for reply that ends on October 11, 2008.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014307, Frame 0154 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

The Appellant is unaware of any related appeals or interferences.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

Claims 1-25 were finally rejected. Pending claims 1-25 are the subject of this appeal.

The present application includes claims 1-25, which are pending in the present application. Claims 1-4, 6-8, and 10-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0059621, issued to Thomas, et al. (hereinafter, Thomas), in view of U.S. Patent No. 6,055,314, issued to

Spies, et al. (hereinafter, Spies). See Final Office Action at page 2. Claims 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas and Spies, in view of U.S. Patent No. 7,134,131, issued to Hendricks, et al. (hereinafter, Hendricks). See *id.* at page 18. The Appellant identifies claims 1-25 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

The Appellant has not amended any claims subsequent to the final rejection of claims 1-25 mailed on April 11, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

The invention of claim 1 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-5, and in Figures 1-2B. Aspects of the present invention may be found in, for example, systems and methods of billing and authentication of a communication device in a communication network. See present application, page 4, lines 2-4. A system in accordance with an embodiment of the present invention may include, for example, at least one communication device, a communication network (e.g., 112 in FIG. 1), information content, and a card (e.g., 120 in FIG. 1). See *id.* at p. 4, ll. 4-6. The

communication device may be deployed at a location (e.g., user's home 101 in FIG. 1). See *id.* at p. 4, ll. 6-7. The communication network may be communicatively coupled to that location. See *id.* at p. 4, ll. 7-8. The information content may reside on the communication network and the location. See *id.* at p. 4, ll. 8-9. The card (e.g., 120 in FIG. 1) may carry information related to one or more user-defined selections of the information content and may allow the communication device to access the user-defined selections. See *id.* at p. 4, ll. 9-11.

Claims 2-9 are dependent upon claim 1.

The invention of claim 10 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-5, and in Figures 1-2B. In another embodiment, a system may include, for example, a first communication device (e.g., 107 in FIG. 1), a second communication device (e.g., 116 in FIG. 1), an independent server (e.g., 113 in FIG. 1), and information content. See *id.* at p. 4, ll. 12-14. The first communication device may be deployed at a first location (e.g., user's home 101). See *id.* at p. 4, ll. 14-15. The second communication device may be deployed at a second location (e.g., office 102). See *id.* at p. 4, ll. 15. The communication network may be communicatively coupled to the first location and the second location. See *id.* at p. 4, ll. 16-17. The independent server may reside on the communication network. See *id.* at p. 4, ll. 17-18. The information content may reside on at least one of the first location, the second location, and the communication network. See *id.* at p. 4, ll. 18-19. The independent server may be adapted to provide

media exchange services related to user-defined selections of information content to the first communication device and the second communication device after receiving authentication and billing information from the first communication device. *See id.* at p. 4, ll. 19-23.

Claims 11-16 are dependent upon claim 10.

The invention of claim 17 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-5, and in Figures 1-2B. In another embodiment, a method in accordance with the present invention may comprise, for example, one or more of the following: selecting media exchange services to be provided to a first communication device and a second communication device, the media exchange services relating to user-defined selections of information content available on the communication network (e.g., step 201 in FIG. 2A); purchasing a card, the card giving access to the selected media exchange services available on the communication network (e.g., step 202 in FIG. 2A); communicatively coupling the card with the first communication device (e.g., step 203 in FIG. 2A); and accessing of the selected media exchange services by the first communication device (e.g., step 203 in FIG. 2A). *See id.* at p. 4, line 24 – p. 5, line 4.

Claims 18-20 are dependent upon claim 17.

The invention of claim 21 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-5, and in Figures 1-2B. In another embodiment, a method may comprise, for example,

one or more of the following: selecting media exchange services to be provided to a first communication device and a second communication device, the media exchange services relating to a user-defined selection of information content that is available on the communication network (e.g., step 211 in FIG. 2B); establishing a subscription with an independent server located on the communication network, the subscription allowing for access by the first communication device and the second communication device to the selected media exchange services available on the communication network (e.g., step 212 in FIG. 2B); entering identification information via the first communication device, the identification information validating the subscription (e.g., step 213 in FIG. 2B); and accessing the selected media exchange services by the first communication device (e.g., step 214 in FIG. 2B). *See id.* at p. 5, ll. 5-15.

Claims 22-25 are dependent upon claim 21.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

Claims 1-4, 6-8, and 10-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0059621, issued to Thomas, et al. (hereinafter, Thomas), in view of U.S. Patent No. 6,055,314, issued to Spies, et al. (hereinafter, Spies). Claims 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas and Spies, in view of U.S. Patent No. 7,134,131, issued to Hendricks, et al. (hereinafter, Hendricks).

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

In the Final Office Action, claims 1-4, 6-8, and 10-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0059621, issued to Thomas, et al. (hereinafter, Thomas), in view of U.S. Patent No. 6,055,314, issued to Spies, et al. (hereinafter, Spies). Claims 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas and Spies, in view of U.S. Patent No. 7,134,131, issued to Hendricks, et al. (hereinafter, Hendricks). The Appellant respectfully traverses these rejections at least based on the following remarks.

I. The Proposed Combination of Thomas and Spies Does Not Render Claims 1-4, 6-8, and 10-25 Unpatentable

The Appellant first turns to the rejection of claims 1-4, 6-8, and 10-25 as being unpatentable over Thomas in view of Hendricks.

A. Independent Claim 1

With regard to the rejection of independent claim 1 under 103(a), the Appellant submits that the combination of Thomas and Spies does not disclose or suggest at least the limitation of "a card carrying information related to one or more user-defined selections of the information content, wherein the card allows the at least one communication device to access the user-defined selections identified by the card, once

the card is communicatively coupled to the at least one communication device," as recited by the Appellant in independent claim 1.

The Final Office Action states the following:

Thomas fails to disclose a card carrying information related to one or more user-defined selections of the information content; wherein the card allows the at least one communication device to access the user-defined selections identified by the card, once the card is communicatively coupled to the at least one communication device.

Spies, in the same field of media exchange; discloses a card (These decryption capabilities are stored on an integrated circuit (IC) card, such as a smart card or PCMCIA card, that is issued to the viewer. **The IC card is configured with cryptographic functionality to support the secure purchase of the decryption capabilities from the video merchant.** The IC card can then operate in conjunction with a viewer's set-top box (STB), DVD player, or other video computing device to decrypt a video stream of the selected video content program using the purchased decryption capabilities stored on the IC card without exposing those capabilities to the viewer or video computing device; see US'314, col. 2 lines 31-42) **carrying information related to one or more user-defined selections of the information content (the IC card has a pair of public and private exchange keys and a pair of public and private signing keys.** When the purchaser selects a video, the IC card digitally signs the order using the private signing key and passes a credential with the public exchange and signing keys to the video merchant computing unit; see US'314, col. 3 lines 19-24)

See the Final Office Action at pages 3-4 (emphasis added). In the above citation, the Examiner has conceded that Thomas fails to disclose the limitation of a card carrying information related to one or more user-defined selections of the information content; wherein the card allows the at least one communication device to access the user-defined selections, as recited in Appellant's claim 1. The Examiner then relies for support on numerous citations from Spies. In fact, pages 3-5 of the Final Office Action

provide extensive summaries of the subject matter of Spies relating to the IC card. However, neither those citations nor those summaries support the rejection made by the Examiner, and in fact show that the Examiner must also concede that Spies does not teach this claim limitation. Specifically, by the Examiner's own admission (see bolded portions above), **Spies' IC card is configured with cryptographic functionality and is used to support the secure purchase of the decryption capabilities from the video merchant. More specifically, Spies' IC card is simply used to store the public and private exchange and signing keys that are used to decrypt the video data stream provided from the distribution medium.** See Spies at Abstract and col. 3, lines 36-51. In this regard, the Examiner's citations and summaries confirm that Spies' IC card is *not* used to carry any information related to user-defined selections of information content, and furthermore, that the IC card is also *not* used to access user-defined selections identified by the card.

Therefore, the Appellant maintains that the combination of Thomas and Spies does not disclose or suggest at least the limitation of "a card carrying information related to one or more user-defined selections of the information content, wherein the card allows the at least one communication device to access the user-defined selections identified by the card, once the card is communicatively coupled to the at least one communication device," as recited by the Appellant in independent claim 1.

Accordingly, the proposed combination of Thomas and Spies does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been

established. The Appellant submits that claim 1 is allowable. Independent claims 10, 17, and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Appellant submits that independent claims 10, 17, and 21 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claim 2

Claim 2 depends on independent claim 1. Therefore, the Appellant submits that claim 2 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 2.

C. Rejection of Dependent Claims 3-4 and 6-8

Claims 3-4 and 6-8 depend on independent claim 1. Therefore, the Appellant submits that claims 3-4 and 6-8 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 3-4 and 6-8.

D. Rejection of Independent Claim 10

The Appellant submits that the combination of Thomas-Spies does not disclose or suggest at least the limitation of "the independent server ... provides media exchange services ... upon receipt of authentication and billing information for the one or more user-defined selections from the first communication device," as recited by the Appellant in claim 10.

With regard to claim 10, the Final Office Action states the following at pages 7-9:

Thomas discloses a system for billing and authentication of a communication device in a communication network, comprising:

a first communication device (communication device 264) deployed at a first geographic location (User equipment 260 as user equipment 160 in Fig. 1; Media distribution facility 150 may be a cable system headend, a satellite television distribution facility, a television broadcast facility; Media distribution facility 150 may also be connected to various user equipment 160. Such user equipment 160 may, for example, be located in the homes of users; see ¶¶0039-¶¶0040 and Fig. 2; ¶¶0052-¶¶0054);

a second communication device (communication device 269) deployed at a second geographic location (user equipment 265 as user equipment 160 in Fig. 1; see ¶¶0039-¶¶0040 and Fig. 2; ¶¶0052-¶¶0054);

a communication network (170) communicatively coupled to the first location (user equipment 260) and the second location (user equipment 265) (user equipment 160 in Fig. 1) (see Fig. 2; ¶¶0052-¶¶0054);

an independent server (remote server network 110 of Fig. 1 or 210 of Fig. 2) residing on the communication network (170 of Fig. 1 or 270 of Fig. 2); and information content (on-demand media data, ¶¶0059) residing on one first location (user 260), the second location (user 265), and the communication network (270),

wherein the independent server (210) receives one or more user-defined selections of the information content and provides media exchange services (remote server network 210 may provide a communications hub between user equipment 260 and 265 and other elements in network

topology 200; see ¶¶0059-¶¶0060) related to the one or more user-defined selections of the information content to the first communication device (264) and the second communication device (269); (see Fig. 1 and ¶¶0091-¶¶0092), upon receipt of authentication (see Fig. 5B; ¶¶0080-¶¶0081).

However, Thomas fails to disclose billing information for the one or more user-defined selections from the first communication device.

Spies, in the same field of media exchange; discloses billing information for the one or more user-defined selections from the first communication device (the subscriber rentals of video content programs). (The VOD application allows the subscribers to interactively peruse and select video content programs from the virtual video store. Additionally, the cable operator 202 might perform the billing and collection tasks resulting from subscriber rentals of video content programs; see US'314, col. 14 lines 2-7) Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify on-demand media distribution system of Thomas with billing information as taught by Spies; in order to provide a secure video delivery system that is convenient for consumers to use. The system should grant selective access to paying consumers in a simple, secure manner.

The Examiner concedes that Thomas does not disclose the above limitation and then relies for support on Spies. Spies, at col. 14, ll. 2-7, simply discloses that the cable operator 202 performs the billing and collection tasks. However, Spies does not disclose that the cable operator provides media exchange services ***upon receipt of authentication and billing information*** for one or more user-defined selections. The Appellant maintains that the combination of Thomas-Spies does not disclose or suggest at least the limitation of "the independent server ... provides media exchange services ... upon receipt of authentication and billing information for the one or more user-defined selections from the first communication device," as recited by the Appellant in

claim 10. Accordingly, the Appellant submits that claim 10 is allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 10.

E. Rejection of Dependent Claim 11-15

Claims 11-15 depend on independent claim 10. Therefore, the Appellant submits that claims 11-15 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 10.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 11-15.

F. Rejection of Dependent Claim 16

Claim 16 depends on independent claim 10. Therefore, the Appellant submits that claim 16 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 10. The Appellant also submits that the combination of Thomas-Spies does not disclose or suggest at least the limitation of “the authentication and billing information is related to one or more of information relating to securing a payment, information relating to payment terms, information relating to

billing, information relating to content push restrictions or limitations, and/or information relating to content access,” as recited by the Appellant in claim 16.

With regard to claim 16, the Final Office Action states the following at pages 10-11:

According to system above, Thomas teaches an upload and download features relating to content push restrictions or limitations, and information relating to content access (§0125, §0126 and §0127) the system wherein the authentication and billing information is related to information relating to payment terms (Display screen 550 may contain information region 552 that includes information on the title, purchase price, running time, rating, and other information related to the user's selection; see US'621, window 552 of Fig. 5B)

As stated above with regard to claim 10, the Examiner already conceded that Thomas does not disclose authentication and billing information (the Examiner relied on Spies to teach this deficiency). The Appellant points out that neither Thomas nor Spies discloses that the authentication and billing information is related to information relating to securing a payment, information relating to payment terms, information relating to billing, information relating to content push restrictions or limitations, and/or information relating to content access. Accordingly, the Appellant submits that claim 16 is allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 16.

G. Rejection of Independent Claim 17

Independent claim 17 is similar in many respects to the method disclosed in independent claim 1. Therefore, the Appellant submits that independent claim 17 is also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also submits that the combination of Thomas-Spies does not disclose or suggest at least the limitation of “the card giving access to the selected media exchange services available on the communication network, and the card carrying information related to the selected media exchange services,” as recited by the Appellant in claim 17.

With regard to claim 17, the Final Office Action states the following at pages 11-13:

Thomas teaches a method for billing and authentication of a communication device in a communication network, comprising:

a) selecting media exchange services (on-demand-media distribution system or user-specific files, para. [0107, 0121]) to be provided to a first communication device (on display 262 with device 264 at user 260) and a second communication device (on display 267 with device 269 at user 265), the media exchange services relating to user-defined selections of information content (para. [0087])(steps 902 and 903 of Fig. 9, para. [0101, 0102]).

giving access (para. [0080], step 904 or 906 of Fig. 9 para. [0103,0104]) to the selected media exchange services above available on the communication network (remote server network 210) by remote control 300; communicatively with the first communication device (display screen 600 of Fig. 6A on display 262 with 264 of Fig. 2, para. [0081]).

Thomas fails to teach purchasing a card the card giving access to the selected media exchange services available on the communication network and the card carrying information related to the selected media exchange services. Also communicatively coupling the card with the first communication device.

Spies, in the same endeavor; teaches purchasing a card the card giving access to the selected media exchange services available on the communication network (purchase a video content program is through remote access; the purchaser 26 might insert the IC card 50 into the purchaser's own computing unit (not shown in this figure) resident at his own home which is interconnected to the video merchant computing unit 44 via a distribution network, such as an interactive television (ITV) network, a computer network, or a telephone network; the video purchasing application might be in the form of a user interface program (e.g., a video-on-demand user interface) which enables the purchaser to shift through the various programs in an organized fashion; see US'314, Fig. 2, col. 6, lines 34-58) and the card carrying information related to the selected media exchange services (The computing unit generates an order describing the video content program and might additionally include instructions and authorization for payment. **The microcontroller 52 of the IC card 50 is configured to execute various cryptographic functions, including hashing, signing, encryption, decryption, and authentication. The IC card 50 stores two asymmetric pairs of public and private cryptography keys: a signing pair and an exchange pair;** see col. 6, line 59-col. 7 line 3); communicatively coupling the card with the first communication device (The viewer computing unit 60 has a card I/O device which is compatible with the IC card 50. The viewer inserts the IC card 50 into the I/O device on the viewer computing unit 60. When the IC card 50 is coupled to the viewer computing unit 60, the microcontroller 52 on the IC card is interactively interfaced with the viewer computing unit 60 to cooperatively decrypt the video data stream received from the video content provider. This ensures that no security is lost when the IC card 50 is interfaced with the viewer computing unit 60; see US'314, Fig. 3, col. 9, lines 14-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify on-demand media distribution system of Thomas with a IC card as purchasing card as taught by Spies; in order to provide a secure video delivery system that is convenient for consumers to use. The system should grant selective access to paying consumers in a simple, secure manner.

In the above italicized citation, the Examiner has conceded that Thomas fails to disclose the limitation of a card giving access to the selected media exchange services available on the communication network and the card carrying information related to the selected media exchange services, as recited in Appellant's claim 17. The Examiner then relies for support on numerous citations from Spies. In fact, pages 3-5 of the Final Office Action provide extensive summaries of the subject matter of Spies relating to the IC card. However, neither those citations nor those summaries support the rejection made by the Examiner, and in fact show that the Examiner must also concede that Spies does not teach this claim limitation. Specifically, by the Examiner's own admission (see bolded portions above), **Spies' IC card is configured with cryptographic functionality and is used to support the secure purchase of the decryption capabilities from the video merchant. More specifically, Spies' IC card is simply used to store the public and private exchange and signing keys that are used to decrypt the video data stream provided from the distribution medium.** See Spies at Abstract and col. 3, lines 36-51. In this regard, the Examiner's citations and summaries confirm that Spies' IC card is **not** used to carry any information related to user-defined selections of information content, and furthermore, that the IC card is also **not** used to access user-defined selections identified by the card.

Therefore, the Appellant maintains that the combination of Thomas and Spies does not disclose or suggest at least the limitation of "the card giving access to the

selected media exchange services available on the communication network, and the card carrying information related to the selected media exchange services,” as recited by the Appellant in independent claim 17. Accordingly, the Appellant submits that claim 17 is allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 17.

H. Rejection of Dependent Claims 18-20

Claims 18-20 depend on independent claim 17. Therefore, the Appellant submits that claims 18-20 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 17.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 18-20.

I. Rejection of Independent Claim 21

The Appellant submits that Thomas-Spies does not disclose or suggest at least the limitation of “establishing a subscription with an independent server located on the communication network, the subscription allowing for access by the first communication

device and the second communication device to the selected media exchange services available on the communication network," as recited by the Appellant in claim 21.

With regard to claim 21, the Final Office Action states the following at pages 14-16:

Thomas teaches a method for billing and authentication of a communication device in a communication network, comprising:

a) selecting media exchange services (an VOD program, ¶0077 line 1-2) to be provided to a first communication device at a first geographic location (display screen 450 of Fig. 4B of display 262 in user devices 260 of Fig. 2) and a second communication device at a second geographic location (display screen 450 of Fig. 4B of display 267 in user devices 265 of Fig. 2), the media exchange services relating to a user-defined selection of information content (¶0077) that is available on the communication network.

c) entering identification information (PIN, see para. [0080]) via the first communication device (display screen 500 of Fig. 5A), the identification information validating the subscription to the selected media exchange services (button 557 of Fig. 5B is selected, see ¶0081) and

d) accessing (the request VOD program may be displayed, see ¶0081 lines 6-8) the selected media exchange services by the first communication device after entry of the identification information (display screen 600 of Fig. 16A on display device 262 of user device 260).

establishing a subscription (by ordering display screen 550) with an independent server (remote server network 210 of Fig. 2 as VOD server) located on the communication network (270 of Fig. 2 as cable headend) (cable headend in network 270)(also see ¶0077-¶0079 and Fig. 5A and 5B). However, **Thomas fails to disclose the subscription allowing for access by the first communication device and the second communication device to the selected media exchange services available on the communication network.**

Spies, in the same field of media exchange; discloses the subscription allowing for access by the first communication device and the second communication device (interconnected to multiple subscribers 204) to the selected media exchange services available on the communication

network (communication over an interactive network 206) (Interactive entertainment network system 200 has a cable operator 202 interconnected to multiple subscribers 204 via an interactive network 206. In this implementation of the video purchase and delivery system, the cable operator 202 serves dual roles of video merchant and video content provider. The cable operator 202 performs its traditional tasks of providing video content programs to the subscribers and facilitating communication over an interactive network 206. The cable operator 202 might also support a video-on-demand (VOD) application which provides a virtual video store in the subscriber's own home. Additionally, the cable operator 202 might perform the billing and collection tasks resulting from the subscriber rentals of video content programs; see US'314, Fig. 9 col. 13 line 55 to col. 14 line 7). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify on-demand media distribution system of Thomas with the subscription allowing for access by multiple subscribers as taught by Spies; in order to provide a secure video delivery system that is convenient for consumers to use. The system should grant selective access to paying consumers in a simple, secure manner.

The Examiner concedes that Thomas fails to disclose the subscription allowing for access by the first communication device and the second communication device to the selected media exchange services available on the communication network, and then relies on Spies for support. The Appellant points out that the "media exchange services" recited in Appellant's claim 21 are specifically selected to be provided to the first communication device and/or the second communication device. Furthermore, the established subscription (recited in Appellant's claim 21) allows for access by the first communication device and the second communication device. However, Spies at col. 13, line 55 – col. 14, line 7, as well as any remaining portion, does not disclose that a subscription is established with an independent server. In fact, Spies is also silent and does not disclose that a subscription established with an independent server also allows for access by the first communication device and the second communication device to

selected media exchange services available on a communication network, as recited by the Appellant in claim 21. Accordingly, the Appellant submits that claim 21 is allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claim 21.

J. Rejection of Dependent Claims 22-25

Claims 22-25 depend on independent claim 21. Therefore, the Appellant submits that claims 22-25 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 21.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 22-25.

II. The Proposed Combination of Thomas, Spies, and Hendricks Does Not Render Claims 5 and 9 Unpatentable

Claims 5 and 9 depend from independent claim 1, and are, consequently, also respectfully submitted to be allowable at least for the reasons stated above with regard to allowability of claim 1. The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 5 and 9.

CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-25 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge \$540 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 08-OCT-2008

By: /Ognyan I. Beremski/
Ognyan Beremski, Reg. No. 51,458
Attorney for Appellant

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775 – 8100

(OIB)

CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A system for billing and authentication of a communication device in a communication network, comprising:

at least one communication device deployed in at least one location;
a communication network communicatively coupled to the at least one location;
information content residing on one or both of the communication network and the at least one location; and

a card carrying information related to one or more user-defined selections of the information content, wherein the card allows the at least one communication device to access the user-defined selections identified by the card, once the card is communicatively coupled to the at least one communication device.

2. The system according to claim 1, wherein the communication network comprises one or more of a third party media server, a media storage server, a broadband access headend, a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, a closed communication infrastructure, a local area network, and/or a wireless infrastructure.

3. The system according to claim 1, wherein the communication network comprises the Internet.

4. The system according to claim 1, wherein the communication network comprises a local area network (LAN).

5. The system according to claim 4, wherein the local area network comprises one or both of an Ethernet and/or an 802.11b wireless network.

6. The system according to claim 1, wherein the at least one communication device comprises one or more of a computer, a storage device, a media peripheral, set-top box circuitry, a television, a display, and/or a remote control.

7. The system according to claim 1, wherein the information content comprises one or more of third party media content, digital video, digital images, digital audio, documents, files, broadcast television programs, radio channels, news programming, sporting events programming, special programming, and/or on-demand movies.

8. The system according to claim 1, wherein the card comprises one or more of a chip-enabled card, a magnetic strip card, and/or a Subscriber Identity Module (SIM) card.

9. The system according to claim 1, wherein the information carried on the card is related to one or more of accessing the user-defined selections by the at least one communication device, processing the user-defined selections by the at least one communication device, pushing the user-defined selections onto the communication network, pushing user-created information content onto the communication network, information relating to securing a payment, information relating to payment terms, information relating to billing, information relating to content push restrictions or limitations, and/or information relating to content access.

10. A system for billing and authentication of a communication device in a communication network, comprising:

- a first communication device deployed at a first geographic location;
- a second communication device deployed at a second geographic location;
- a communication network communicatively coupled to the first location and the second location;
- an independent server residing on the communication network; and
- information content residing on one or more of the first location, the second location, and/or the communication network,

wherein the independent server receives one or more user-defined selections of the information content and provides media exchange services related to the one or more user-defined selections of the information content to the first communication device and the second communication device, upon receipt of authentication and billing

information for the one or more user-defined selections from the first communication device.

11. The system according to claim 10, wherein the communication network comprises one or more of a third party media server, a media storage server, a broadband access headend, a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, a closed communication infrastructure, a local area network, and/or a wireless infrastructure.

12. The system according to claim 11, wherein the communication network comprises the Internet.

13. The system according to claim 10, wherein at least one of the first communication device and the second communication device comprise one or more of a computer, a storage device, a media peripheral, set-top box circuitry, a television, a display, and/or a remote control.

14. The system according to claim 10, wherein the information content comprises one or more of third party media content, digital video, digital images, digital audio, documents, files, broadcast television programs, radio channels, news

programming, sporting events programming, special programming, and/or on-demand movies.

15. The system according to claim 10, wherein the media exchange services comprise one or more of granting the first communication device or the second communication device access to the user-defined selections, processing the user-defined selections by the first communication device or the second communication device, pushing the user-defined selections onto the communication network, and pushing user-created information content onto the communication network or between the first communication device and/or the second communication device.

16. The system according to claim 10, wherein the authentication and billing information is related to one or more of information relating to securing a payment, information relating to payment terms, information relating to billing, information relating to content push restrictions or limitations, and/or information relating to content access.

17. A method for billing and authentication of a communication device in a communication network, comprising:

selecting media exchange services to be provided to a first communication device and/or a second communication device, the media exchange services relating to user-defined selections of information content available on the communication network;

purchasing a card, the card giving access to the selected media exchange services available on the communication network, and the card carrying information related to the selected media exchange services;

communicatively coupling the card with the first communication device; and

accessing of the selected media exchange services by the first communication device, once the card is communicatively coupled with the first communication device.

18. The method according to claim 17, comprising:

allowing the second communication device to access the selected media exchange services.

19. The method according to claim 18, wherein allowing the first communication device or the second communication device to access the selected media exchange services comprises one or more of granting the first communication device or the second communication device access to the user-defined selections, processing the user-defined selections by the first communication device or the second communication device, pushing the user-defined selections onto the communication network, and pushing user-created information content onto the communication network or between the first communication device and/or the second communication device.

20. The method according to claim 17, comprising:

allowing the second communication device to access user-created information content that is available to the first communication device.

21. A method for billing and authentication of a communication device in a communication network, comprising:

selecting media exchange services to be provided to a first communication device at a first geographic location and/or a second communication device at a second geographic location, the media exchange services relating to a user-defined selection of information content that is available on the communication network;

establishing a subscription with an independent server located on the communication network, the subscription allowing for access by the first communication device and the second communication device to the selected media exchange services available on the communication network;

entering identification information via the first communication device, the identification information validating the subscription to the selected media exchange services; and

accessing the selected media exchange services by the first communication device after entry of the identification information.

22. The method according to claim 21, comprising:

accessing the selected media exchange services by the second communication device.

23. The method according to claim 21, comprising:

allowing the second communication device to access user-created information content that is available to the first communication device.

24. The method according to claim 21, wherein allowing the first communication device and the second communication device to access the selected media exchange services comprises one or more of granting the first communication device or the second communication device access to the user-defined selections, processing the user-defined selections by the first communication device or the second communication device, pushing the user-defined selections onto the communication network, and/or pushing user-created information content onto the communication network or between the first communication device and the second communication device.

25. The method according to claim 21, wherein establishing the subscription comprises one or more of establishing information securing payment, establishing information regarding payment terms, establishing information regarding billing, and/or establishing information regarding content pushing.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

- (1) United States Patent Publication No. 2002/0059621 ("Thomas"), entered into record by the Examiner in the October 31, 2007 Office Action.
- (2) United States Patent No. 6,055,314 ("Spies"), entered into record by the Examiner in the April 11, 2008 Office Action.
- (3) United States Patent No. 7,134,131 ("Hendricks"), entered into record by the Examiner in the October 31, 2007 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

The Appellant is unaware of any related appeals or interferences.